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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,086	07/23/2001	Louis W. Blanco	9000/1	2887
27774	7590	10/31/2005	EXAMINER	
MAYER, FORTKORT & WILLIAMS, PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090			LE, VU	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,086

Applicant(s)

BLANCO ET AL.

Examiner

Vu Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-39 and 50-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-39 and 50-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 24, 2005 have been fully considered but they are not persuasive.

With respect to independent claim 34 (independent claim 37 stands and falls together), Applicant asserts that in Endo (secondary reference), element 40 (fig. 1) is used to activate and deactivate the audio input source, "it does not appear to activate the video recorder as well" (Remarks, p. 7). Applicant's argument is noted, however Examiner respectfully disagrees.

Claim 34 (also 37) merely recites "a recording device", a video recorder is not positively claimed. Thus, a recording device as claimed may be broadly construed as encompassing audio recording or merely audio recording. Hence, the argument is moot. In Endo, audio is being recorded as well as video (see "CLAIMS" of Official Translation of JP 05-183788 A submitted by applicant). Thus, "a recording device" as claimed is met by Endo. Therefore, the rejection is maintained.

Applicant also asserts that element 40 "does not contain any information regarding whether recording is occurring, or could it". And the command signal received by control circuit 42 "does not indicate that the recording device is in a recording mode as required by claim 34" (Remarks, p. 8). Applicant's arguments are noted, however Examiner respectfully disagrees.

The points of argument above attempt to add more limitations to claim 34 than warranted. In the broad context of what is claimed, claim 34 recites receiving an input

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signal indicative of the operational status of the recording device, and a controller receiving said input signal and generating an RF activation signal when the operational status is in recording mode i.e. "active". In contrast, in Endo, the on/off actuation via element 40 is two fold. Firstly, actuation of element 40 to "ON/OFF" is in effect receiving an input actuation signal. Once actuated, a corresponding RF signal is generated and transmitted to actuate the wireless mic 2 to "ON/OFF". Hence, the operational status of the wireless mic 2 is "ON" or "OFF". Secondly, audio recording is concurrent to the operational status of the wireless mic (see para. 0009 of applicant's submitted translation). In other words, actuating element 40 "ON/OFF" effectively actuates wireless mic 2 "ON/OFF" via RF signal, which effectively starts audio recording. Hence, by actuating element 40 "ON/OFF", the operational status of audio recording is also known.

Since it has been previously established that "a recording device" may be construed as merely audio recording, and not positively claimed as video recording as asserted, the rejection is maintained.

It is noted that applicant's remarks only raise issues pertinent to the Endo reference. No arguments were raised pertaining to applied art of Cohodar, Grad and Reference U. The lack of arguments to those references is taken that applicant acquiesces the propriety of those applied art.

2. Claims 1-33 and 40-49 have been canceled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 34, 37, 50, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohoda, US 5,012,335 in view of Endo, JP 05-183788.

The grounds for rejection of claims 34 and 37 have been established in the last Office Action (see paragraph 22). The grounds for rejection of claim 7 from the last Office Action is applicable to claims 50 and 54 (see paragraph 29).

5. Claims 35, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohoda, US 5,012,335 in view of Endo, JP 05-183788 as applied to claims 34 and 37 above and further in view of Grad, US 5,794,125.

The grounds for rejection have been established in the last Office Action (see paragraphs 46-48).

6. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohoda, US 5,012,335 in view of Endo, JP 05-183788 as applied to claim 37 above and further in view of Roberts et al, US 4,873,711.

The grounds for rejection have been established in the last Office Action (see paragraph 41).

7. Claims 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohoda, US 5,012,335 in view of Endo, JP 05-183788 as applied to claim 34 above and further in view of Reference U (Spread Spectrum Technology and Wireless Microphone System).

The grounds for rejection claim 34 have been established in the last Office Action (see paragraph 22). The grounds for rejection of claim 8 from the last Office Action is applicable to claim 51 (see paragraph 37). The grounds for rejection claim 9 from the last Office Action is applicable to claim 52 (see paragraph 39).

8. The abstract of the disclosure is objected to because it should be written in a single paragraph. Correction is required. See MPEP § 608.01(b).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is (571) 272-7332. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Vu Le', with a stylized loop at the end.

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